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July 23, 2013

VIA US MAIL AND E-MAIL

The Honorable John Gleeson
United States District Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig., Case
No. 1:05-MD-1720 (JG) (JO)

Dear Judge Gleeson:

We represent the Target Objectors¹ in the above-referenced matter. We write to address an issue related to the impending report of Professor Alan O. Sykes.

Pursuant to the Court's Orders of July 2, July 9, and July 16, parties and objectors have been providing materials to Professor Sykes and then filing their transmittal letters to Professor Sykes, but not the materials provided by those letters, as part of the docket in this action. Some of the materials that appear to have been provided to Professor Sykes in unredacted form are not available in unredacted form in the public record of this case.

In order to have the opportunity to fully respond to Professor Sykes's report, as is contemplated by the Court's Order of July 2, 2013, the objectors will need to have access to all of the materials that have been provided to Professor Sykes. At present, that is not possible for the reason stated above. Moreover, the short one-week period between the due date of Professor

¹ The Target Objectors are Target Corporation, Macy's, Inc., Kohl's Corporation, The TJX Companies, Inc., Staples, Inc., J.C. Penney Corporation, Inc., Office Depot, Inc., L Brands, Inc., Big Lots Stores, Inc., PNS Stores, Inc., C.S. Ross Company, Closeout Distribution, Inc., Ascena Retail Group, Inc., Abercrombie & Fitch Co., OfficeMax Incorporated, Saks Incorporated, The Bon-Ton Stores, Inc., Chico's FAS, Inc., Luxottica U.S. Holdings Corp., and American Signature, Inc.



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Sykes' report (August 28) and the due date of any responses to his report (September 4) make it impracticable for parties or objectors to initiate proceedings to obtain unredacted documents and to analyze those documents for the first time after Professor Sykes submits his report but before the Court's September 4 deadline.

Accordingly, it makes sense to resolve the issue of access to unredacted materials prior to Professor Sykes' submission of his report. We respectfully propose that any party or objector that has supplied Professor Sykes with an unredacted document that is not publicly available in unredacted form be required to provide an unredacted copy to any objector requesting such a copy, conditioned upon such objector agreeing to comply with the provisions of the protective order in this case concerning the receipt of highly confidential information. The identities of and contact information for parties and objectors that have submitted materials to Professor Sykes is sufficiently clear from the docket, enabling parties and objectors to request unredacted copies from one another. The Target Objectors intend to make such requests and hereby indicate their willingness to abide by the terms of the protective order.

The Target Objectors preserve and do not waive any other objections to Professor Sykes' report or the process related thereto.

Respectfully,

A handwritten signature in black ink, which appears to read "Mike Canter".

Michael J. Canter

MJC/rnw